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5 UNITED STATES DISTRICT COURT  
6 SOUTHERN DISTRICT OF CALIFORNIA

7 BP West Coast Products LLC,  
8 Plaintiff,  
9 vs.  
10 Crossroad Petroleum, Inc. et al.,  
11 Defendants.

Case No.: 12-cv-00665-JLS-JLB

**Order Denying Without Prejudice  
Plaintiff's Motion for Attorneys' Fees  
and Costs**

**[ECF No. 429]**

12 Before the Court is Plaintiff and Counter-Defendant BP West Coast Products  
13 LLC's ("BPWCP") Motion for Attorneys' Fees and Costs Associated with Motions to  
14 Compel Discovery Against Schiller Defendants<sup>1</sup> (ECF No. 429), pursuant to Rule 37 of  
15 the Federal Rules of Civil Procedure and the Court's Order dated June 2, 2015 (ECF No.  
16 421).

17 Civil Local Rule 7.1.e.2. requires a party opposing a motion to file an opposition  
18 or statement of non-opposition within the fourteen calendar days prior to the noticed  
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<sup>1</sup> See ECF Nos. 414 and 422 (identifying the Schiller Defendants).

1 hearing. Failure to comply with these rules “may constitute a consent to the granting of a  
2 motion.” CivLR 7.1.f.3.c. District courts have broad discretion to enact and apply local  
3 rules, including issuing sanctions for failure to comply with the local rules. *Ghazali v.*  
4 *Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (affirming grant of an unopposed motion to  
5 dismiss under local rule by deeming a pro se litigant’s failure to oppose as consent to  
6 granting the motion); *United States v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979) (“Only  
7 in rare cases will we question the exercise of discretion in connection with the application  
8 of local rules”).

9 Here, the scheduled hearing date reflected on Plaintiff BPWCP’s noticed motion  
10 was July 16, 2015, resulting in a response deadline for the Schiller Defendants of July 2,  
11 2015. More than one month has passed since the scheduled hearing date and still the  
12 Schiller Defendants have not filed an opposition. Applying the local rules of this court  
13 and considering the public’s interest in expeditious resolution of litigation, the court’s  
14 need to manage its docket, and the merits of BPWCP’s Motion for Attorney’s Fees and  
15 Costs, the Court concludes that BPWCP should be awarded reasonable fees and costs.

16 However, BPWCP is seeking \$38,840.55 in fees, and the Court is unable to  
17 calculate the amount of reasonable costs and fees owed to BPWCP based on the current  
18 record. First, BPWCP fails to articulate why each of the Schiller Defendants should be  
19 jointly responsible for BPWCP’s fees and costs, or alternatively, how the fees and costs  
20 sought should be apportioned between the various Schiller Defendants. Second, BPWCP

1 fails to meet its burden of producing sufficient evidence showing that the requested  
 2 hourly rates are reasonable rates in the Southern District of California for work of similar  
 3 complexity by attorneys with comparable skill and reputation. *See Chaudhry v. City of*  
 4 *Los Angeles*, 751 F.3d 1096, 1110-11 (9th Cir. 2014) (“Fee applicants have the burden of  
 5 producing evidence that their requested fees are ‘in line with those prevailing in the  
 6 community for similar services by lawyers of reasonably comparable skill, experience  
 7 and reputation.’”); *Blair v. CBE Group, Inc.*, No. 13cv134-MMA, 2014 WL 4658731, at  
 8 \*3-\*5 (S.D. Cal. Sept. 17, 2014) (same).

9 The evidence presented in support of BPWCP’s fees is inadequate.<sup>2</sup> For example,  
 10 BPWCP provides an itemized list detailing the fees and costs incurred by named  
 11 “professional[s],” but fails to provide job titles and other information relevant to these  
 12 professionals’ skill, experience, and reputation. Further, BPWCP provides its own  
 13 counsel’s declaration attesting to the reasonableness of the fees sought, but fails to  
 14 provide other corroborating evidence. *Blum v. Stenson*, 465 U.S. 886, 896 n.11 (1984)  
 15 (“the burden is on the fee applicant to produce satisfactory evidence—*in addition to the*  
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 18 <sup>2</sup> The Court notes that this is BPWCP’s second opportunity to meet this burden. The Court previously  
 19 directed BPWCP to re-brief and provide sufficient evidence in support of its motion seeking sanctions.  
 20 (ECF No. 421 at 3, ¶7 (“Any such motion [for costs and attorneys’ fees] must be supported with  
 sufficient evidence to meet Plaintiff’s burden and to enable the Court to consider all the factors  
 necessary in setting reasonable fees under both Fed. R. Civ. P. 37 and pertinent case law.”)); *see also*  
*See In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1306 (9th Cir. 1994) (“the  
 district court was neither obligated to explain what type of records should be submitted, nor to request  
 additional information”).

1 *attorney's own affidavits*—that the requested rates are in line with those prevailing in the  
2 community for similar services by lawyers of reasonably comparable skill, experience  
3 and reputation”) (emphasis added); *Chaudhry*, 751 F.3d at 1110-11 (“Affidavits of the  
4 plaintiffs’ attorney[s] *and other attorneys* regarding prevailing fees in the community . . .  
5 are satisfactory evidence of the prevailing market rate.”) (internal citations omitted)  
6 (emphasis added).

7 Therefore, BPWCP’s Motion is DENIED WITHOUT PREJUDICE (ECF No. 429)  
8 as BPWCP failed to meet its burden to produce sufficient evidence for the Court to award  
9 reasonable fees and costs under Fed. R. Civ. P. 37.<sup>3</sup>

10 IT IS SO ORDERED.

11 Dated: August 27, 2015

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13 Hon. Jill L. Burkhardt  
United States Magistrate Judge

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20 <sup>3</sup> Because this order is without prejudice, it does not preclude BPWCP from seeking an award of its  
reasonable costs and attorneys’ fees from the District Court as part of its motions for sanctions currently  
pending before the Honorable Janis L. Sammartino. (See ECF Nos. 446-48.)